

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JOE DALE MARTINEZ AND	§	
FIDENCIO LOPEZ, JR., Individually,	§	
and on behalf of all others similarly	§	
situated;	§	
	§	
<i>Plaintiffs,</i>	§	
	§	CIVIL ACTION NO. 2:11-CV-295
v.	§	
	§	JURY TRIAL DEMAND
REFINERY TERMINAL FIRE COMPANY	§	
	§	COLLECTIVE ACTION
<i>Defendant</i>	§	PURSUANT TO 29 U.S.C. §216(b)

**UNOPPOSED JOINT MOTION TO EXTEND PRETRIAL DEADLINES**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiffs Joe Dale Martinez and Fidencio Lopez, Jr., Individually, and on behalf of all others similarly situated (hereinafter referred to as “Plaintiffs”) and Defendant Refinery Terminal Fire Company (hereinafter referred to as “RTFC”) file this Unopposed Joint Motion to Extend Pretrial Deadlines. In support hereof, the Parties assert the following:

1. The Parties have conferred and jointly request to modify and extend the future expert designation, submission of expert report, submission of rebuttal expert report(s), submission of statement of intent regarding mediation, end of discovery, status conference, and the filing of dispositive and Daubert motion deadlines.
2. The Parties' proposed modifications to the scheduling order are as follows:
  - a. Designation of Experts by Plaintiffs – May 31, 2013
  - b. Designation of Experts by Defendant – May 31, 2013

- c. Submission of Expert Report(s) by Plaintiffs – May 31, 2013
- d. Submission of Expert Report(s) by Defendant – May 31, 2013
- e. Submission of Rebuttal Expert Report(s) by Plaintiffs – July 1, 2013
- f. Submission of Rebuttal Expert Report(s) by Defendant – July 1, 2013
- g. Discovery shall end – July 12, 2013
- h. Statement of Intent Regarding Mediation – July 16, 2013
- i. Status Conference – July 16, 2013
- j. Filing of Dispositive and Daubert Motions – July 22, 2013

3. This case involves claims of unpaid overtime pursuant to the Fair Labor Standards Act, 29 U.S.C. § 207 ("FLSA"). Plaintiffs assert claims that RTFC failed to pay the Plaintiffs time and a half of their regular hourly rate of pay for all hours worked in excess of forty (40) hours per workweek; which is expressly and vigorously denied by RTFC.

4. Additionally, RTFC contends that various exemptions to the FLSA minimum wage and overtime rules exist.

5. Both Parties have and are actively scheduling depositions in this case and an extension of pretrial deadlines will allow for discovery to be properly completed in accordance with revised deadlines.

6. The Court issued an Order on Agreed Motion to Extend Pretrial Deadlines on February 22, 2013, setting the following future pretrial deadlines:

- a. Designation of Experts by Plaintiffs – May 10, 2013
- b. Designation of Experts by Defendant – May 10, 2013
- c. Submission of Expert Reports by Plaintiffs – May 10, 2013
- d. Submission of Expert Reports by Defendant – May 10, 2013

- e. Submission of Rebuttal Expert Report(s) by Plaintiffs – June 10, 2013
- f. Submission of Rebuttal Expert Report(s) by Defendant – June 10, 2013
- g. Discovery shall end – June 11, 2013
- h. Statement of Intent Regarding Mediation – June 18, 2013
- i. Status Conference – June 25, 2013 at 9:00 a.m.
- j. Filing of Dispositive and Daubert Motions – July 15, 2013

7. Potential plaintiffs include over 100 current and former employees of RTFC. Time records alone for the applicable period account for over 15,500 individual, handwritten documents.

8. While the Parties are working diligently, the Parties underestimated the volume of documents required to be produced and examined in this case. For example, the time sheets alone occupy five (5) full banker storage boxes, the personnel files are approximately three times larger, and these documents do not include Department of Transportation records, training files and other records. While the records will eventually be placed in computer files, each of these thousands of pages of documents must be individually reviewed for possible use in this case.

9. It has become apparent to counsel for both Parties that due to the volume of necessary discovery documentation, there is insufficient time to allow any consulting or testifying expert to adequately review the documentation and issue appropriate reports and opinion.

10. This case is set for a jury trial on August 26, 2013 at 8:30 a.m. The extending of the designation of experts deadline by twenty-one (21) days for each Party will not work as a hardship on either party, but would rather facilitate getting the reports prepared and exchanged in a timely fashion.

11. The Parties are unopposed and expressly agree to have the deadline for designation of experts and the deadline for submission of expert reports set to be the same day, consistent with the Court's original Scheduling Order. The next business day after the expiration of twenty-one (21) days following the existing Plaintiffs' deadline for expert designation is May 31, 2013.

12. Further, it has become apparent that rebuttal expert reports may be appropriate in this action. Therefore, the Parties request that the deadline be set for submission of rebuttal expert reports no less than thirty (30) days after May 31, 2013. The next business day after the expiration of thirty (30) days following May 31, 2013 is July 1, 2013.

13. Consistent the forgoing requests, the submission of statement of intent regarding mediation, end of discovery, status conference, and the filing of dispositive and Daubert motion deadlines would therefore be required to be moved to accommodate the submission of rebuttal expert reports within the discovery time available.

14. Accordingly, Plaintiffs and Defendant RTFC request the Court grant this Unopposed Joint Motion to Extend Pretrial Deadlines relating to the future expert designation, submission of expert report, submission of rebuttal expert report(s), submission of statement of intent regarding mediation, end of discovery, status conference, and the filing of dispositive and Daubert motion deadlines by a minimum of twenty-one (21) days.

Dated 25th day of April, 2013.

/s/ Craig M. Sico  
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REFINERY TERMINAL FIRE COMPANY***

**Certificate of Service**

I certify that on the 25th day of April, 2013 I served a true and correct copy of the foregoing Joint Motion to Extend Deadlines by electronic service to the following:

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/s/ Keith B. Sieczkowski

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